IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.505 OF 2006
IN
CRIMINAL APPEAL NO.316 OF 2006

Sulochana Trimbak Birari ...Applicant.

Versus

The State of Maharashtra
and Ors. ...Respondents.

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Mr.A.R.Shaikh, Advocate for the Applicant.
Mrs.A.S.Pai, APP, for the State.

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CORAM : D.G.DESHPANDE AND
SMT.V.K.TAHILRAMANI, JJ.

DATED : MAY 04, 2006.

P.C.:

. Heard Mr.Shaikh learned Advocate for the applicant and Mrs.Pai learned APP for the State.

2. The applicant-original accused No.2 has been convicted under section 364-A read with 34 of IPC and sentenced to suffer R.I. for life. Now, the applicant is seeking bail.

3. Mr.Shaikh learned Advocate for the applicant has submitted that the applicant is a lady and hence she should be released on bail.

4. We have perused the facts relating to the present case and we find that the applicant has been actively involved in a case of kidnapping a minor boy Sarthak alias Munna who has been examined as P.W.11 in this case. Sarthak alias Munna was eight years old at the time of the incident. P.W.11 Sarthak has stated in his evidence that on the day of the incident, he had gone to purchase tea powder from a shop near his house at Satana, District : Nashik. When he was returning, one green coloured Maruti van was standing on the road. One person i.e.original accused No.1-Vijay Pandurang Sonawane was standing near the van. All of a sudden accused No.1 Vijay caught him and asked him his name. When Sarthak gave his name, accused No.1 pressed his mouth and pushed him in the van. At that time, the present applicant was sitting in the van. She pressed the

mouth of Sarthak with her hand. Sarthak was told that he was being taken to his uncle. Thereafter, the present applicant i.e. original accused No.2 made Sarthak forcibly eat a tablet, due to which he felt giddiness. He regained his senses much later. Thereafter, he was taken to different places in Maruti van.

. P.W.14 Jyotsna Upasani is an eye witness to the fact that original accused No.1 Vijay lifted Sarthak and put him in a van and took him away. She identified Sarthak as well as original accused No.1 Vijay as a same person. She has also identified accused No.1 in the parade.

5. After Sarthak was kidnapped, his father started receiving telephone calls demanding ransom of rupees five lacs. The evidence on record establishes that accused No.1 Vijay made phone calls to the father of Sarthak. Infact, accused No.1 Vijay was caught red-handed making a call to

the father of Sarthak demanding ransom. During the interrogation, he revealed that the victim boy Sarthak was kept with his lover i.e. the present applicant, at Surat. Hence, the police immediately left for Surat in the State of Gujarat. There they found the boy with the present applicant.

6. Mr.Shaikh has submitted that as per the evidence of the boy, he was taken to various places by the two accused persons. Had the boy been really forcibly kidnapped, he would have made some attempts to run away or to make a complaint to some persons on the way. However, it is seen that the boy was hardly eight to nine years old and he was told by the accused persons that he was being taken to meet his uncle. In these circumstances, obviously, the boy would not try to escape or make a complaint to anyone.

7. From the evidence on record, we find that

the present applicant has played a very active role in kidnapping of the boy; i.e. when the boy was pushed into the van by accused No.1 she pressed the mouth of the victim boy and she forcibly administered a tablet to him, which made him feel giddy. Thereafter, the victim boy was taken to various places by the two accused persons. The victim boy was also found with the present applicant in Surat in the State of Gujarat. P.W.7 Shankar Rajput has stated that the applicant was residing in a room near his house. On 28.2.2004, both the accused persons came in green-coloured Maruti van and there was a boy named Munna with them. When this witness made enquiries, the present applicant told him that the boy is the son of her sister. Then, they all went in their house. This witness has identified Sarthak alias Munna as the same boy.

8. From the evidence on record, it is seen that there is sufficient material to show that the present applicant has taken active part in

kidnapping of a minor boy in order to extort ransom from the father of the boy. In this view of the matter, we are not inclined to grant bail to the applicant, even though, she is a lady.

9. Application is rejected.

10. Hearing of Appeal is expedited.

(D.G.DESHPANDE, J.)

(SMT.V.K.TAHILRAMANI,J.)